

### **REMARKS**

Claims 1, 3, 6, 8, 19, 32, and 34-40 are pending in the above-identified application. Claims 1, 3, 6, 8, 19, 32, and 34-40 have herewith been amended. Claims 12 - 18,, 23, 26-29, and 31 have been cancelled. The amendments to the claims are supported by the application as filed and do not therefore introduce new matter. Entry is respectfully requested.

#### **Claim Rejections – 35 U.S.C. § 112**

Claims 1, 3, 6, 8, 19, 32, and 34-40 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse.

The Examiner asserts that the claims reciting a first/second bid or offer for an item do not specify what the bid or offer represents. Also, the Examiner asserts that the interpretation of the bid or offer, the first trader can be interpreted as a buyer or a seller. The Examiner alleges that cited ambiguities make the above-mentioned claims indefinite.

Claims 1, 3, 6, 8, 19, 32, 34-40 have been amended to recite “a first order” and a “second order”, instead of a “first bid or offer”, and a “second bid or offer”, respectively. The claims have further been amended to refer to a second trader rather than a “buyer or seller” and that the order from the second trader is counter to the side of the first and second orders. It is clear that it is irrelevant for the purposes of these claims whether the bid is one to buy or sell the item and whether the offer is one to buy or sell the item. All that matters is that the orders from the first trader are counter to that from the second trader. For example, if at least one of the first and second orders from the first trader is a bid to buy, as is typically the case, then the order from the second trader is one to sell the item. The reverse is also true.

#### **Claim Rejections – 35 U.S.C. § 102**

The Examiner rejects claims 1, 3, 6, 8, 19, 32, and 34-40 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,230,147 (Alaia *et al.*). Applicants respectfully traverse.

Independent claim 1 as amended recites “starting a cooling off period based on receipt of the request to cancel the first order and based on a difference between a price of the first order and a price of the second order is greater than a predetermined amount” Claim 1

further recites “suspending the order to buy or sell the item from the second trader, as a result of the buy or sell order being received during the cooling off period, and for a period of time for the second trader to notice a change in the first order and the second order prices.” The references cited by the Examiner do not disclose or otherwise suggest these features.

The Examiner asserts that Alaia discloses the former features at cols 10, lines 24-29 and col. 14, lines 1-40. The Examiner is mistaken. At col. 10, lines 24-29, Alaia discusses preventing bidders from entering bids that are outside of a certain range. In the instance bids are out of range, additional confirmations may be required for a user to enter the bids. At col. 14, lines 1-40, Alaia discusses rules for triggering extensions to an end of an auction based on receipt of a trigger bid. As noted above, claim 1 recites two conditions that are met for the cooling off period to commence: a cancellation of an order from the first user and a difference between the prices of the first and second orders must exceed a predetermined amount. Alaia in no way discloses triggering any period of time based on the receipt of a cancellation and in no way discloses triggering a period of time also when the price between the cancelled order and the remaining order exceed a certain threshold, in accordance with claim 1.

With regard to the later feature, i.e., “suspending the order to buy or sell the item, as a result of the buy or sell order being received during the cooling off period”, the Examiner asserts that Alaia discloses this feature at the abstract and col. 18, lines 1-15. The examiner is mistaken. At the sections relied on by the Examiner, Alaia discusses an “Auction Pause” that may be applied to one or more auctions by an auction coordinator. Alaia does not discuss what criteria may trigger the pause. As such, Alaia does not disclose suspending an order as a result of the order being received during a cooling off period.

Independent claims 19 and 32 recite features similar to those in claim 1 and are therefore patentable for at least the same reasons.

Dependent claim 6 as amended is directed toward a method that includes the step or steps of “executing the order to buy or sell the item against the second order for the item after the cooling off period.” That is, after the suspension period, the suspended order will be executed against the second order. This is not the same as the “failsafe” criteria relied on by the Examiner at col. 10, lines 24-29 and the rules for overtime triggering relied on by the Examiner at col. 14, lines 1- 40.

Dependent claim 38 recites similar features to that of claim 6 and is patentable for at least the same reasons.

Dependent claim 38 as amended is directed toward a method that includes the step or steps of “communicating the price of the second order to the second trader, and receiving a hit or lift from the second trader after the cooling off period.” This too is not the same as the “failsafe” criteria relied on by the Examiner at col. 10, lines 24-29 and the rules for overtime triggering relied on by the Examiner at col. 14, lines 1- 40.

Claim 39 recites similar features to that of claim 36 and is patentable for at least the same reasons.

## CONCLUSION

For the above reasons, the Applicant submits that the invention as claimed is patentable over the reference cited by the Examiner. Accordingly, reconsideration and allowance of pending claims 1-14 and newly added claims 15-22 is, therefore, respectfully solicited. To expedite the prosecution, the Examiner is invited to contact the Applicant's undersigned representative at 212-895-2905.

Respectfully submitted,

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